

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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VICKI WEST and WENDY FAGUNDES,
individually and on behalf of
others similarly situated,

NO. CIV. S-04-0438 WBS GGH

Plaintiffs,

v.

ORDER RE: CONTINUANCE
AND EVIDENTIARY OBJECTIONS

CIRCLE K STORES, INC.,
Defendant.

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Stipulation

Plaintiffs Vicki West and Wendy Fagundes, on behalf of
themselves and a proposed class, and defendant Circle K Stores,
Inc., by and through their respective counsel of record, have
agreed to pursue mediation in this case on May 15, 2006 before
the Hon. Richard Neal (Ret.). The parties wish to complete
mediation prior to the hearing on plaintiffs' motion for class
certification, currently calendared to be heard on April 17,
2006. Accordingly, the parties hereby request the Court to
continue the class certification hearing for forty-five (45) days

1 to permit adequate time to complete mediation.

2 Dated: April 10, 2006

DEWEY BALLANTINE LLP
By: _____
Matthew M. Walsh
Attorneys for Defendant
Circle K Stores, Inc.

5 Dated: April 10, 2006

McINERNEY & JONES
By: _____
Charles A. Jones
Attorneys for Plaintiffs and
the Proposed Class

10 **ORDER**

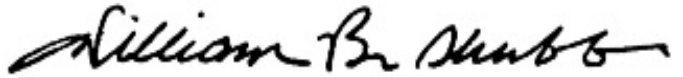
11 Based upon the foregoing stipulation of the parties,
12 and good cause appearing, it is hereby ORDERED that the hearing
13 on Plaintiffs' Motion for Class Certification shall be continued
14 to June 12, 2006 at 1:30 p.m. in Courtroom 5.

15 Regardless of this order, however, the court still
16 requests that the parties appear on April 17, 2006, at 1:30 p.m.
17 in Courtroom 5 as previously scheduled. On April 3, 2006,
18 defendant filed two objections to plaintiffs' requests for
19 judicial notice, eleven objections to statements in the
20 declarations of named plaintiffs Vicki West and Wendy Fagundes
21 (submitted in support of plaintiffs' motion), and one objection
22 to excerpts from the deposition of Robert Crandall. Defendant's
23 objections are made primarily on the grounds that the statements
24 at issue constitute inadmissible personal opinions of lay
25 witnesses (inappropriate expert testimony), or are conclusory,
26 lacking in foundation, argumentative, and/or speculative. To
27 rule on plaintiffs' motion for class certification, the court
28 must first decide these objections and, in the interest of

1 avoiding further delay if and when the court finally hears
2 plaintiffs' motion for class certification, the court thinks it
3 best to consider these objections sooner rather than later.
4 Accordingly, at the hearing currently set for April 17, 2006, at
5 1:30 p.m., the court will hear only the evidentiary objections.

6 IT IS SO ORDERED.

7 DATED: April 11, 2006

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10 WILLIAM B. SHUBB
11 UNITED STATES DISTRICT JUDGE
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